

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGEMENT NO.794 OF 2004
IN
SUMMARY SUIT NO. 744 OF 2004

Kapil Dev Chugh .. Plaintiff

Vs.

Sajeev Badhwar .. Defendant

Mr.T.N.Tripathi i/b K.L.Kharva for the plaintiff

Mr.G.M.Savagare for the defendant

CORAM : S.U.KAMDAR, J
DATED : 3RD OCTOBER, 2005

P.C.:

1. The present suit is filed for the recovery of an amount in respect of transaction of goods sold and delivered. The claim is for Rs.14,05,545.69 covered under 8 invoices.

2. The defendants has raised the following defences. Firstly it is contended that the summons for judgment is filed beyond the period of 6 months after service of writ of summons. In support of the aforesaid contention reliance is placed on Rule 227 of the High Court Original Side Rules. In view of the Division Bench Judgment in the case of Bankay Bihari B.Agarwal & Others Vs. Bhagwanji

Meghji and others reported in 2001(2) Bom.C.R.86, the aforesaid defence has no merits.

3. The next defence is that the claim is barred by the law of limitation. I do not find any merits in the said defence also. It is contended that cheques are dated 5.1.01 and suit is filed on 11.2.04 and therefore the said claim covered by two cheques is time barred. The aforesaid contention has no merits. Firstly, both cheques are admittedly dishonoured in June 2001 and cause of action to sue on dishonoured cheques only arises in June 2001. However, in the present case, the suit is filed on the basis of goods sold and delivered. The invoices are from 24.2.01 onwards and suit is filed on 11.2.2001 and therefore, claim is within time.

4. In that view of the matter, there is no substance in either of the defences raised by the defendant. Suit is decreed as prayed with interest @ 12% from the date of the suit till payment and/or realisation. Summons for Judgment is made absolute. Suit as well as summons for judgment are

disposed of accordingly. Refund of court fee as per rules.